

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

SENORX, INC.

CASE NO. C 07-01075 SC

Plaintiff(s),

v.

COUDERT BROTHERS LLP; AND DOES  
1-500 INCLUSIVE

STIPULATION AND [PROPOSED]  
ORDER SELECTING ADR PROCESS

Defendant(s).

Counsel report that they have met and conferred regarding ADR and have reached the following stipulation pursuant to Civil L.R. 16-8 and ADR L.R. 3-5:

The parties agree to participate in the following ADR process:

**Court Processes:**

Non-binding Arbitration (ADR L.R. 4)

Early Neutral Evaluation (ENE) (ADR L.R. 5)

✓ Mediation (ADR L.R. 6)

*(Note: Parties who believe that an early settlement conference with a Magistrate Judge is appreciably more likely to meet their needs than any other form of ADR, must participate in an ADR phone conference and may not file this form. They must instead file a Notice of Need for ADR Phone Conference. See Civil Local Rule 16-8 and ADR L.R. 3-5)*

**Private Process:**

Private ADR (please identify process and provider) \_\_\_\_\_

Although the parties have agreed to select a mediator from the Court's ADR panel, they reserve the right to change to private ADR.

The parties agree to hold the ADR session by:

the presumptive deadline *(The deadline is 90 days from the date of the order referring the case to an ADR process unless otherwise ordered.)*

✓ other requested deadline Please see attached for positions of parties.

Dated: 05/18/07

Dated: 05/18/07

Geraldine Weiss  
Attorney for Plaintiff

Diana M. Estrada  
Attorney for Defendant

**The Positions of the Parties Attachment to Stipulation and [Proposed]  
Order Selecting ADR Process**

**Case No.: C 07-01075 SC**

**SENORX V. COUDERT BROTHERS LLP AND DOES 1 - 500**

It is Defendants' position that it is premature to litigate this matter and accordingly premature for any type of mediation at this point as this matter is stayed as to Coudert Brothers LLP, an indispensable party to this action as there can be no finding of liability against the Individual Partner Defendants until there is: (1) a finding of liability against Coudert Brothers LLP; (2) a subsequent damages assessment against Coudert Brothers LLP based on the liability finding; and (3) a finding that Coudert Brothers cannot satisfy the self-insured-retention under the insurance policy applicable to this case. This necessarily involves a determination of the extent of Coudert Brothers LLP's liability for legal malpractice in this action. Accordingly, this matter is not yet ready for mediation.

Plaintiff is ready to mediate but will be guided by the court as to whether this case is ripe for mediation.

**[PROPOSED] ORDER**

Pursuant to the Stipulation above, the captioned matter is hereby referred to:

Non-binding Arbitration

Early Neutral Evaluation (ENE)

✓ Mediation

Private ADR

Deadline for ADR session

90 days from the date of this order.

✓ other

IT IS SO ORDERED.

Dated: \_\_\_\_\_

\_\_\_\_\_

UNITED STATES MAGISTRATE JUDGE

**PROOF OF SERVICE**  
**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I am employed in the County of Los Angeles, State of California, by WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER and am over the age of 18 and not a party to the within action. My business address is 555 South Flower Street, Suite 2900, Los Angeles, CA 90071.

On **May 18, 2007**, I served the **STIPULATION AND [PROPOSED] ORDER SELECTING ADR PROCESS** on the interested parties in this action by transmitting a true copy via e-mail to attorneys for plaintiff addressed as follows:

dweiss@mjplaw.net  
[Geraldine Weiss]

**Attorney for Plaintiff**  
**Senorx, Inc.**

Ph: 310-312-1102  
Fx: 310-473-0708

X **(Federal)** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on **May 18, 2007**, at Los Angeles, California.

Diana M. Estrada

